

International Certification Services, Inc.

5449 45th Street Southeast, Medina, North Dakota 58467 USA Ph: (701) 486-3578 Fax: (701) 486-3580

E-mail: farmvo@daktel.com Website: www.ics-intl.com

Corporate Headquarters in Rural North Dakota
Operating the FVO Organic Certification Program

The FVO Program is accredited by IFOAM, Quebec Accreditation Council (QAC), and (USDA) ISO 65

Providing the
following
services:



Services NOT
accredited by
IFOAM, QAC, or
(USDA) ISO 65:

*ICS US
Organic

*Training

*Consulting for
Organic
Certifying
Organizations

*Bio Suisse
approval
(US/Canada)

Offices:

Brazil

California, USA

N.Dakota, USA
(Corporate
Headquarters)

**United
Kingdom**

20 September, 2002

Re: Draft Recommendation on US/EU Equivalency prepared by the NOSB International Committee

International Certification Services, Inc. (ICS) has considered the NOSB's Draft Recommendation. We generally agree with the content of the Draft, although we believe that it is not a complete discussion of the subject. We would like to offer the following comments for consideration:

It is likely that differences between the EC Regulation and the NOP Rules will continue to exist for a long time to come. However, despite many differences, it is the position of ICS, Inc. that the intention and ultimate service provided by organic certification by the two respective systems does fulfill the same objective.

For the purpose of this discussion, ICS, Inc. groups its assessment of differences between the two systems as follows:

- 1) Those that ICS, Inc. does not consider as being substantial enough to warrant a barrier to trade.
- 2) Those that ICS, Inc. does consider as substantial; in these aspects, until closer agreement exists, automatic recognition of organic goods certified under EC Regulations would effect a negative impact on US producers.
- 3) Those that ICS, Inc. deems are more stringent under the EC Regulation compared to the NOP.
- 4) Other areas of significance that ICS, Inc. believes merit further consideration by the NOSB and its counterparts, both in the US and Europe.

Taking each of these in turn:

- 1) *Those differences that ICS, Inc. does not consider as being substantial enough to warrant a barrier to trade:*

Unless otherwise mentioned in the two categories that follow, the reader may assume that ICS, Inc. does not feel the difference in question is substantial enough to warrant a barrier to trade.

- 2) *Those differences that ICS, Inc. does consider to be substantial:*

- a. Livestock: Conversion time, feed requirements, and medical treatments – all of these are substantially more lenient under the EC Regulations compared to the NOP. ICS Inc. supports the NOP's stringency. The EC Regulations do have phase-out periods for certain practices, but until the two systems' rules are more in agreement, ICS, Inc. does not feel that livestock products produced under the EC norms should be considered equivalent to those produced under the NOP.

- 3) *Those that ICS, Inc. deems are more stringent under the EC Regulation compared to the NOP:*

- a. Parallel Production: This is prohibited under the EC Regulation (Annex III, A.1.3), except for limited approval for perennial crops.

4) *Topics meriting further consideration:*

- a. Buffer zones: The NOP mandates buffer zones as applicable; the EC does not. However, the EC mandates sampling and analysis for residue in cases of suspected contamination, while the NOP has this as a voluntary practice. It is our belief that analysis on the EC side probably does not occur as often as it should, and in general that analysis should not be relied upon when there is a clear need for a protective area to keep an organic field safer from drift by prohibited materials.

ICS, Inc. believes that a compromise between the two approaches is best – i.e. that buffer zones should be required as deemed appropriate by the certifying agent, and that analyses should be mandatory when contamination is really suspected. It is our belief that the two practices in combination will result in greater protection of organic fields and a concomitant reduction in the need for mandated analyses.

In summary, we believe USDA and the EC should work to resolve this issue further prior to a mutual recognition agreement.

- b. Labels:

Notable differences are: (i) the percentage requirements between the EC and NOP rules, which may cause some “organic” products in the EC to have to be labeled as “made with organic <ingredients>” under the NOP; and (ii) The EC label must relate the word “organic” to a method of agricultural production, whereas the under the NOP a label can simply refer to the final processed food product itself as “organic.” In effect, ICS, Inc. sees the former point is more strict under the NOP, and the latter more strict under the EC Regulation. We would support the more strict position for both.

Consumers in each respective market have evolved to understand the labeling practices instituted by their respective regulatory structures. Differences in labeling requirements and the attempt to resolve them may create confusion over the long term. However, the intention of the organic labeling requirements of each system are quite close.

ICS, Inc. feels it is best to allow the two markets to continue with their own labeling requirements. This will require that exporters adjust their labels to be compliant on products to be imported by the foreign market. This is a practice commonly used throughout global trade already, and should not pose undue hardships on traders.

- c. Derogations / Variances: Individual control bodies under the EC system can make derogations or variances on individual operations, at the final consent of their respective competent authorities. No such variance is possible under the NOP, where only a top-level state or federal official can grant said variance, and then generally only on a wide scale.
- d. Additional standards: The EC Regulations allow for a two-tiered approach to certification, permitting a certifying agent to certify to the base EC Regulation, as well as to voluntary additional requirements for the operator to merit an extra seal. The NOP does not specifically allow such flexibility. ICS, Inc. strongly supports the EC model on this point.

- e. Materials: The EC list is a positive list of allowed materials. The NOP National List is divided along synthetic/nonsynthetic (or agricultural/non-agricultural, for processing). It seems clear to ICS, Inc. that individual operators who are subjected to a greater restriction regarding any given material will see themselves as being at a disadvantage compared to their competitors who may be able to use the same material without the same restriction.

Greater harmonization regarding materials, especially those that are more contentious, needs to be achieved. Considering the principle that material inputs are seen by both regulatory systems, and in organic production generally speaking, as being adjuncts to good organic management and not necessarily first-line strategies, ICS, Inc. suggests that the two regulatory systems adopt the more restrictive decision to any material in question. This will require a facile exchange of information between USDA and EC authorities, and a timely revision of materials lists. The format of the respective lists need not change, but perhaps some of the decision on specific materials will need to change.